IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3135 OF 2006

Nilesh Dilip Devkule ... Applicant
versus
State of Maharashtra ... Respondents

Mr.Vikas Shivarkar for applicant.
Smt.M.M.Deshmukh, APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18th September 2006

PC :

1. The applicant is original accused no.1. He has been arrested on 2nd November 2005 in connection with CR No.963 of 2005 registered at Swargate Police Station, Pune. The allegations are that offences punishable under section 302, 201 r/w 34 of IPC have been committed by the applicant as also co-accused Balu Mhaske.

2. The statement of the complainant shows that her sister after being married to the father of present applicant on ground of strained relations, left him and was residing separately. She was having illicit relations with one Siraj

Shaikh and later on with deceased Anil Shinde.

3. Agitated and aggrieved by the fact that the deceased had such relations with his mother so also he not maintaining her by paying monthly sum for her livelihood, the married son namely, the applicant and other co-accused assaulted the deceased on the relevant date. The co-accused had a knife with which he assaulted the deceased, whereas, the applicant used wooden stick. There are recoveries of these weapons at the instance of the applicant. The investigations are complete and charge sheet is filed.

4. I have been taken through the complainants version so also order on the application for bail preferred by co-accused Balu Mhaske. The co-accused Balu Mhaske has been enlarged on bail on 23rd June 2006.

5. Prior thereto, on 7th June 2006, the applicant’s application has been rejected.

6. After having perused the relevant statements so also the order passed in the case of co-accused, there being no denial of the fact that both, applicant and the co-accused,

allegedly assaulted the deceased, on grounds of parity as well, the applicant deserves to be enlarged on bail.

7. However, since the complainant being a relation of the applicant so also other witnesses residing within the vicinity of the house of the complainant, it would be proper if the applicant stays away from Pune. Shri Shivarkar agrees to such condition being imposed and submits that the applicant would stay away till the trial. In such circumstances, the following order would meet the ends of justice.

8. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.963 of 2005 registered at Swargate Police Station, Pune subject to furnishing a personal bond of Rs.25,000/- (Rs.Twenty five thousand only) with one or two sureties in the like sum;

(ii) The applicant shall stay away from Pune City limits till trial in the above CR is concluded;

(iii) The applicant shall furnish his residential

address where he proposes to reside after bail and during pendency of trial, before his release, to the concerned Investigating Officer, and he shall not change his address without prior intimation to the I.O.;

(iv) The applicant shall report to the nearest Police Station of his new address once a week till conclusion of the trial;

(v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(vi) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(vii) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)